



ASBESTOS REGULATORY CLARIFICATIONS

Toxic Substances Control Division
ARC – 017
November 2001

Subject: Licensing Renewal Period

BACKGROUND

Clarification is needed regarding whether or not a person can work while their application for license renewal is being processed.

RESPONSE

If a person has submitted a renewal application in a timely and sufficient manner, then the current license (license in his/her possession) does not expire, until the application has been finally determined (processed or denied) by the Texas Department of Health (TDH).

DISCUSSION

In Section 25 TAC 295.31(e) License possession requirements states: *Anyone engaged in asbestos-related activities in a public building must provide proof of a current license to any inspecting official from the Texas Department of Health (department), to an employer, or to a prospective employer upon request. All licensed individuals must have the Identification Card issued by the department on the work site at all times while engaged in asbestos-related activity. For individuals, this is the only proof of valid license.*

In Section 25 TAC 295.38(h) Prohibition states: *To practice with lapsed licenses and registration is prohibited, regardless of when the renewal application is received. Ÿ*

These citations in the TAHPR are superceded by section 2001.054(b) of VTCS (Vernon's Texas Civil Statutes) which states: *If a license holder makes timely and sufficient application for the renewal of a license or for a new license for an activity of a continuing nature, the existing license does not expire until the application has been finally determined by the state agency. Ÿ*

Section 2001.054(b) of VTCS has been interpreted to mean the following: a person submitting license renewal application, that is, submitted in a timely (as evidenced by a postmark date prior to



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the expiration of the license card) and sufficient manner (clearly fraudulent documents or missing documents would be insufficient)

may continue to work under the license number and control number assigned until a final determination has been made (either the license is granted or it is denied).

FREQUENTLY ASKED QUESTIONS

1. Can a person who has submitted an application for renewal continue to perform asbestos related activities?

Answer: Yes. If the renewal application has been submitted in a timely and sufficient manner (as defined above). The application package must indicate a postmark prior to the expiration of the physical license.

2. What constitutes insufficient application for renewal licensure?

Answer: If the license holder has minor errors that can be corrected, then the application would be considered sufficient. If, in the opinion of the licensing coordinator, the application is insufficient (i.e. the applicant is not responding to either written or phone requests for additional information or there is clearly fraudulent documentation that has been submitted) then the process for denial will be started and/or a Notice of Violation (NOV) will be issued.

3. Does the ability to work while the application is being processed apply to NEW applicants?

Answer: Because there is currently no provision in the TAHPR for a new license for an activity of a continuing nature, VTCS Section 2001.054 does not apply. A person cannot perform asbestos-related activities, in a public building, without having a current license.

Agree to form and substance

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